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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,659	12/28/2001	John H. Guy	7356-51437	7943
29148	7590	07/01/2004	EXAMINER	
ONEBANE, BERNARD, TORIAN, DIAZ, MCNAMARA & ABELL P. O. BOX 3507 LAFAYETTE, LA 70502			MACKEY, JAMES P	
			ART UNIT	PAPER NUMBER

1722

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,659

Applicant(s)

GUY, JOHN H.

Examiner

James Mackey

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/22/04, 4/30/04, 5/3/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4,5,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4,5,7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1722

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 4, 5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van de Caveye et al. (U.S. Patent 4,576,561) in view of either Andersen et al. (U.S. Patent 5,766,525; col. 58, lines 47-57) or Andersen et al. (U.S. Patent 5,580,409; col. 36, lines 15-18, 35-40 and 53-57, and col. 37, lines 31-36).

Van de Caveye et al. disclose an apparatus substantially as claimed, comprising a frame 5 having an opening therein, a conveyor 30 positioned within the frame opening, at least one elongated, rotatable horizontal roller 14 mounted on a carriage 15 coupled to the frame for supporting the at least one roller at a desired distance above the conveyor, positioning means 21 operatively coupled to the carriage and the at least one roller for adjusting the position of the at least one roller with respect to the carriage, and an electric motor/rotary power means 27, 28 operatively coupled to the at least one roller (see col. 3, lines 66-68, and col. 4, lines 38-47).

Van de Caveye et al. do not disclose means for heating an outer surface of the roller (claims 4

Art Unit: 1722

and 8), do not disclose the roller being formed of a material resistant to adhering to the building block (claim 5), and do not disclose the positioning means coupled to the carriage and roller as being a lead screw (claims 7 and 8). Each of Andersen et al. '525 and Andersen et al. '409 disclose reduction rollers for pressing cementitious material, the rollers being heated and having a non-stick coating to prevent adhesion of the cementitious material to the rollers. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Van de Caveye et al. by providing the at least one roller with heating means and a non-stick coating, as disclosed in either Andersen et al. '525 or Andersen et al. '409, in order to prevent adhesion of the building block material to the at least one roller, especially in view of the recognition in Van de Caveye et al. that material sticking to the rollers is an issue that should be addressed, e.g. by cleaning (col. 5, lines 15-19). With regard to the lead screw positioning means, jacks and screws are well known equivalent means for adjusting the relative position between two structures, and it would have been obvious and well within the level of ordinary skill in the art to modify Van de Caveye et al. by providing the positioning means 21 as a lead screw for the same purpose of adjusting the position of the roller relative to the carriage.

4. Applicant's arguments with respect to claims 4, 5, 7 and 8 have been considered but are moot in view of the new ground(s) of rejection.

Applicant contests the Examiner's assertion that heating means or non-stick surface material are well known in the press shaping art for minimizing material from sticking to a shaping means; in response, the Examiner has cited references for these well known features.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

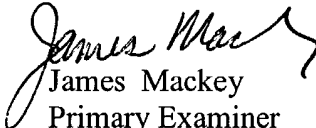
Art Unit: 1722

Betzner (U.S. Patent 4,781,558; col. 2, lines 12-19) discloses a Teflon-coated leveling roll 24. Hume (U.S. Patent 2,320,728; Figure 10; page 3, right hand column, lines 30-33) discloses a compacting and smoothing roller 41 having a rubber surfacing.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 571-272-1135. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Mackey
Primary Examiner
Art Unit 1722
6/29/04

jpm
June 29, 2004